

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION OF)
DELAWARE DIVISION OF THE PUBLIC)
ADVOCATE TO REDUCE THE RATES OF)
REGULATED UTILITIES AS A RESULT) PSC DOCKET NO. 17-1240
OF THE TAX CUTS AND JOBS ACT OF)
2017'S REDUCTION IN CORPORATE)
INCOME TAXES AND OTHER TAX)
CHANGES (FILED DECEMBER 27, 2017))

ORDER NO. 9331

AND NOW, this 31st day of January 2019:

1. On December 22, 2017, the President signed the Tax Cuts and Jobs Act of 2017 ("TCJA"), which became effective on January 1, 2018. The TCJA represents the first significant change in the United States federal tax laws since the 1986 Tax reform Act. Among other things, the TCJA: (1) reduces the federal corporate income tax rate from 35% to 21%; (2) allows full and immediate expensing of short-lived capital investments for five years; and (3) increases the expensing cap from \$500,000 to \$1 million.

2. The Delaware Public Service Commission ("Commission") has long included in a regulated utility's operating expenses an amount of federal corporate income tax equal to what the utility would pay if it were a stand-alone company. For many years, the Commission has included in regulated utilities' operating expenses an amount of federal corporate income tax equal to 35%, and has deducted from those utilities' rate base a corresponding amount of Accumulated Deferred Income Tax ("ADIT") pursuant to 26 Del. C. § 102(3).

3. On December 27, 2017, the Delaware Division of the Public Advocate ("DPA") filed a petition with the Commission requesting the

Commission to open a docket to examine whether the current rates of its regulated utilities required reduction as a result of the TCJA. The DPA contended that unless the Commission reduces rates in an amount that corresponds to the benefits that the TCJA confers on the utilities, Delaware regulated utility ratepayers will be paying unjust and unreasonable rates. The DPA requested the Commission to direct each regulated utility to file an estimate of its determination of the TCJA's effects on its cost of service, and to propose a procedure for changing rates to reflect those impacts, on or before March 31, 2018. Additionally, should the Commission determine that any utility's rates require reduction as a result of its review of the utility's submission, the DPA asked the Commission to open a docket for each utility for which it made such a determination, and to establish a procedural schedule for conducting an evidentiary hearing regarding the TCJA's impacts on the utility's operations and existing rates.

4. On January 16, 2018, in Order No. 9166, the Commission granted the DPA's petition. It directed each rate-regulated public utility to file an estimate of its determination of the TCJA's effects on its cost of service for the most recent test year available (including new rate schedules) and to propose a procedure for changing rates to reflect those impacts on or before March 31, 2018. It also ordered that if it determined that a utility's rates required reduction, it would open a new docket for each utility for which it made such a determination and would establish a procedural schedule for conducting an evidentiary hearing regarding the TCJA's impacts on the utility's operations and existing rates. The Commission exempted Delmarva Power & Light Company

("DPL") from this order, instead directing that the effects of the TCJA on DPL's electric and natural gas base rates would be addressed in DPL's pending base rate cases, Docket Nos. 17-0977 and 17-0978.

5. On January 19, 2018, the DPA filed a motion to direct regulated utilities to create regulatory liabilities reflecting the Delaware jurisdictional revenue requirement impacts of the TCJA effective February 1, 2018 while the Commission determines whether a utility's rates required reduction and, if so, the amount of such reduction. The DPA contended that in order to preserve the rate-reducing effects of the TCJA until the Commission approves new rates for the utilities, a regulatory liability must be created; otherwise, the prohibition against retroactive ratemaking would deprive ratepayers of the benefits accruing from the TCJA between its effective date and the date on which Commission-authorized new rates become effective. The DPA noted that the reduction of the federal income tax rate from 35% to 21% benefits ratepayers by reducing one of the elements of a utility's cost of service comprised in calculating a utility's revenue requirement by 14%.

6. On February 1, 2018, in Order No. 9177, the Commission granted the DPA's motion and directed all Delaware rate-regulated public utilities to create regulatory liabilities reflecting the Delaware jurisdictional revenue requirement impacts of the changes in the federal corporate income tax laws, in order to protect ratepayer interests until such time as the TCJA benefits are appropriately reflected in customers' rates and to avoid retroactive ratemaking.

7. On March 29, 2018, Sussex Shores Water Company ("Sussex Shores"), in order to comply with Commission Order No. 9166, submitted a comparison of its September 30, 2017 income tax statement figures which showed Sussex Shores' determination of the effect of the TCJA. Sussex Shores stated that it first removed all DSIC revenues, DSIC refunds, and interest on DSIC refunds to more accurately reflect earnings going forward. Sussex Shores' filing included two columns: (1) the first included figures used to calculate net income after taxes using the former (25%) rate for the entire year; and (2) the second included first used to calculate net income using the new tax rates for the entire year. Sussex Shores further stated that income taxes were reduced by approximately \$25,000 under the new tax rates. Finally, Sussex Shores stated that it calculated its overall rate of return under each condition (applicable rate). In both such calculations, Sussex Shores submitted that its overall rate of return fell below the percentage approved in its most recent 2007 rate case. Therefore, Sussex Shores contends that no adjustment to its rates is justified and, accordingly, it did not propose to change its rates or to return any part of the regulatory liability created pursuant to Commission Order No. 9177 to ratepayers.

8. The DPA and Commission Staff have reviewed Sussex Shores' filing. The DPA and Staff contend that Sussex Shores' volumetric and fire protection rates should be reduced to reflect the reduction of the federal corporate income tax rate from 25% to 21% as follows:

USAGE	Current Rate	New Rate
0-5,000 gallons	\$3.64	\$3.60
5,001-20,000 gallons	\$5.19	\$5.13
Over 20,000 gallons	\$6.61	\$6.53

Public Fire	Current Rate	New Rate
Per Hydrant	\$128.80	\$127.31

Private Fire	Current Rate	New Rate
1.5"	\$51.20	\$50.61
2"	\$90.20	\$89.15
3"	\$115.00	\$113.67
4"	\$129.20	\$127.70
6"	\$157.00	\$155.18
10"	\$345.00	\$341.00

9. The DPA and Staff further maintain that the regulatory liability created pursuant to Order No. 9177 for the tax collected from February 1, 2018 through the effective date of these rate changes should be returned to ratepayers via a credit on ratepayers' bills during the period April through June 2019.

10. Sussex Shores asserts that it is not earning its authorized rate of return and therefore should not be required to return any of the amounts associated with the TCJA reduction to ratepayers.

11. On January 31, 2019, the Commission considered the DPA's and Staff's proposed new volumetric and fire protection rates, and Sussex Shores' objection to those rates, at its regularly scheduled meeting.

NOW, THEREFORE, BY THE AFFIRMATIVE VOTES OF NO FEWER THAN THREE COMMISSIONERS, IT IS HEREBY FOUND AND ORDERED:

1. Pursuant to 26 Del. C. § 304(a), the Commission finds good cause to waive the 60- days' notice of proposed rate changes and to waive the public notice requirement to allow these rate changes to become effective with usage on and after March 1, 2019. Good cause exists because the proposed changes are a decrease in rates, which benefits

Sussex Shores' ratepayers, and because Sussex Shores has been on notice since the Commission issued Order Nos. 9166 and 9177 that the Commission would examine the effect of the TCJA on Sussex Shores' rates.

2. The Commission hereby approves the proposed reductions in Sussex Shores' volumetric and fire protection rates set forth herein, effective with usage on and after March 1, 2019. Sussex Shores shall file revised tariff sheets with the Commission reflecting these rates by February 10, 2019.

3. The Commission hereby further approves the return of Sussex Shores' regulatory liability created pursuant to Order No. 9177 for the tax collected from February 1, 2018 through the effective date of these rate changes to ratepayers via a credit on ratepayers' bills during the period April through June 2019.

4. The Company shall file its Excess Deferred Income Tax Workpapers by March 31, 2019 for an audit and true-up of the Company's claimed annual amortization rate.

5. The Commission reserves jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

/s/ Joanne T. Conaway
Commissioner

Harold B. Gray
Commissioner

/s/ Manubhai C. Karia
Commissioner

/s/ K.F. Drexler
Commissioner

ATTEST:

/s/ Donna Nickerson
Secretary